

Santa Rosa Subregional Long-Term Wastewater Project

DRAFT EIR/EIS COMMENT FORM

DUE OCTOBER 7, 1996 4:30 PM

Name: Mary Blanchard ColettiDate: Sept 26, 1996Address: 1286 SE 38thCity: Hillsboro State: Or Zip: 97123Phone: (503) 648-1399**How to use:**

Please fill out the above and provide your written comments about the Draft EIR/EIS in the space provided below. You may add additional pages if needed. Please write legibly. If you prefer to type your comments on a separate page, please attach to this form. Where possible, please reference the page to which the comment refers. When you have completed your comments, please fold the form so the City's address is showing, tape the edges together, **(Do not use staples)**, and place in the mail.

Elizabeth Blanchard Hanlein

33 Blanca Dr

415-897-7753

Novato, California

Enclosed = Review and Questions on EIR/EIS DRAFT (1-17)

Public Hearing Sept 24, Comment (8-9)

Article 6 Williamson Act (10-13)

Newspaper Article Sept 29, 1996 Press Democrat

Map of one dam

by Blanchard Colette
Mary Blanchard Colette

**REVIEW AND QUESTIONS ON THE EIR/EIS DRAFT SUMMARY DATED
JULY 1996 SANTA ROSA SUBREGIONAL LONG-TERM WASTEWATER
PROJECT**

" MAYBE " S are not appropriate in situations where " **KNOWN**S" exist.
TABLE 1-13 page 1-46 to 1-57]

001

SOCIO-ECONOMIC ---page 1-57

**18.2 -- LOSS OF PROPERTY AND LAND--DAMS -- ALL DAM SITES
ARE PROPOSED ON AN ACTIVE EARTHQUAKE FAULT]- page 1-57**

002|003

Condemning land for a dam would cause loss of land, houses, barns, wells, septic systems, roads, grazing land, fences, irrigation dams, etc.. Other land becomes unusable. More wetlands are created. **Who would build at the base of an earthfilled embankment dam 2500 ft. long and 300 ft. tall ?** (average for proposed dams) To run a ranch you need land, and all of the above and more. **At what cost and to whom ?**]

Replacement costs are exorbitant--- adequate housing, barns, fences, septic tanks, fresh water wells for drinking, placement of holding tanks and buildings in relation to dam and water ways---to mention a few. At what cost and to whom ? What about permits that would be required for redevelopment ? **At what cost and to whom ?**]

004

Williamson Act--- What about back taxes, who is liable?] In the Williamson

005|006

Act, Government Code Section- Article 6 --# 51290 (see attached copy) (p 9-13)
it states that farm land cannot be condemned if other ways of solving the problem are available--- and we know of many other alternatives some not addressed in the draft--- returning water to City of Santa Rosa to use in toilets and to water yards, parks, schools, etc., is one that could be **fazed in .**]

18.1-- INCREASED SERVICE CHARGE FOR WASTE WATER---page 1-57

007

How much increase will this be ? Cost to homeowners getting rid of waste water? Cost to those using waste water--- pipes, fencing, cross fencing, irrigation system, seed, equipment to maintain and use system, hired help, need for more pressure to pump irrigation, erosion control, usage and hook up expenses, number of government agents to police the operation, cost to correct problems and complaints **that arise, etc ?**]

(1)

Mary Blanchard 10/11/11

Insurance companies may not insure properties in close proximity to dam sites because of the eminent hazards associated with earth filled embankment dams. Who will carry liability insurance and at what cost and to whom ?	008
13.6.1 and 13.6.2— NOISE -- page 1-52 -- ---from pump station	009
What will the noise level guarantee be? Who is liable if this increases? At what cost and to whom ? Will the noise effect the "contented cows" production of milk?	
12.2.3 and 1.2.5 --AIR QUALITY --page 1-51	010
What are the olfactory expectations and guarantees? Who is liable if this becomes more noxious? What expectations should those living with dam expect?	
8.5.3 to 10.9.1—JURISDICTIONAL WETLANDS, AQUATIC and TERRESTRIAL BIOLOGICAL RESOURCES — page 1-49 to 1-51	011
Changes by implementation of plan = more water---irrigation, seepage, overflow etc. What demands and changes and controls will be legislated ? Regulations =	012
expense. Who is liable for the expense to insure wetlands will not be adversely affected? --- Who is liable for the possible relocation or modification of holding	013
ponds and buildings, or other unforeseeable problems ? What happens when rains	014
create more water and flooding occurs? Several dam sites are above the Esteros and will adversely effect the habitate so closely monitored by the environmentalists and other caring individuals. How will they be appeased---at what expense and to whom ?	
4.4C to 6.9.2-- IMPACT ON WATER SUPPLY--- page 1-46 to 1-48	015
Toxicity due to added nitrogen , ammonia, salt, oxygen, sulfates, metals, etc. will affect the surface water, groundwater, wells, septic tanks, etc. ?	
This in turn affects the soil, water supply, and things growing on it and in it and those eating the products produced from the land. Who is liable for providing	016
pure water to those affected ? At what expense and to whom? Low flat lands used	017
for pasture, silage, crops, already have high water tables most of the year. Who is liable and responsible for monitoring the waters? At what cost and to whom? Sludge will impact the problem even more.	
3.4.1 to 3.9.3-- GEOLOGY, SOILS AND SEISMICITY---page 1-44 to 1-46	018
THE DAM SITES ARE ON KNOWN ACTIVE EARTHQUAKE FAULTS	
Corrosive elements in the soil are mentioned which "MAY" (WRONG WORD) "WILL" affect the pipelines and irrigation lines. Expansive soils and liquefaction due to an earthquake are mentioned. What pipe materials are used? What is the	019
life expectancy of the materials ? Are there guarantees or warranties ? Who is	020

(2)

ry Blanchard Colette
 Mary Blanchard Colette

liable and responsible for installing the lines and replacing them as needed ? What
 are the costs and responsibility for the landowner. Is it reasonable to locate 021
 pipelines et al in areas of unstable slope conditions and active fault lines? The 022
 information is disclosed but who is held liable and responsible for the failures ? At
 what cost and to whom? I do not accept the mitigation measures mentioned in
 the draft as adequate solutions to problems that might occur if "MOTHER
 NATURE" has her way.

Will insurance companys provide needed liability insurance to property owners? 023
EARTH FILLED EMBANKMENT DAMS do not offer much security to 024
communities down stream from these dams especially as the dams proposed
average 2500 ft.long and 300 ft. tall. Page 4. 19.5 and 6 states that if the dams 025
 burst --the maximum water depth would be Site 3A-- 80 feet high at Two Rock,--
 Site 3B-- 20 feet high at Bloomfield,--Site 3C-- 17 feet high at Valley Ford and 17
 feet high at Bloomfield,-- Site 3D 15 feet high at Valley Ford and 17 feet high at
 Bloomfield, and --Site 3E-- 76 feet high at Fallon-Two rock and 61 feet high near
 Fallon. ** Small dams - one concrete (reported never to leak) , and one earth
 filled embankment dam- above Oakmont, are leaking now, as stated in the Press
 Democrat three weeks ago.

MY EXPERIENCES WITH EARTH FILLED EMBANKMENT DAMS AND EARTHQUAKES AND EROSION CONTROL PLANS

Earth filled embankment dams tend to leak or at least seep. The addition of a 026
 tremor increases the fact. Who is responsible when this happens ? What are the 027
 costs? How much seepage is allowed as acceptable? More seepage means more 028
 ground water. More ground water means less useable pasture without
 drainage. Who is responsible for this and at what cost ?--- see attached letter p 1-3
 presented to the City of Santa Rosa public hearing, September 24, 1996.

1.5.3 to 2.7.3 AGRICULTURE and LAND USE ---page 1-44

Land will be lost at the reservoir site or sites--- not only the dammed land filled 029
 with waste water but also land and buildings surrounding the dam. More ground
 water from seepage, etc. rendering flat lands at base of dam useless except as
 marsh. Top soil with added chemicals from irrigation and seepage will reduce soil 030
 productivity and change land use. Consequently, more land is lost then shown in
 charts (pages 1-31, 1-38) Page 1-44 # 3D does not acknowledge loss of farm 031
 land.

Williamson act--- who is liable and responsible for back taxes on lost land ? 032
 What about land value and use of once productive land, now land deemed 033
 unusable because of consequences of the wastewater project ? How is one
 reimbursed for this ? Who is responsible and at what cost and to whom ? Less
 costly solutions are available with less impact.

(3)

Larry Blanchard wrote

The mitigation measures listed in your report for the West County irrigation are not adequate to compensate for acts of Mother Nature. Creating dams on known active earthquake faults is defying all logic—and I want it to be on record that I do not agree to be bound by the disclosure of any potential consequence or impact listed in the Santa Rosa Subregional Long-Term Wastewater Project's Environmental Impact Report and Environmental Impact Statement (July 1966). I reserve all rights in law and equity and refuse to release, waive, acquit, or discharge any potential claim either known or unknown, which I, my family, agents, or assigns have or may have in the future against any individuals or entities, whatsoever, including the City of Santa Rosa as well as its agents, employees, and assigns arising from or related to the City of Santa Rosa's Subregional Wastewater Project.]

QUESTIONS AND CONCERNS ABOUT CONTRACTED WATER:

1. What does it mean? What are the costs to the ranchers?] 036
2. Loss of land --- to dam, to land below dam = usage change] 037
3. How do you avoid and control discharge during flood times ?] 038
4. Need more fencing and cross fencing. --- will the city of Santa Rosa purchase these, or ranchers? Cost ?] 039
5. Irrigated land would be more productive, but will the cost be more or less than costs of silage and hay ?] 040
6. What county and state permits would be involved and what are the costs ?] 041
7. Who is financially responsible for a good supply of fresh drinking water if wells are destroyed because of waste water? At what cost and to whom?] 042
8. Who is financially responsible for septic changes that might be required ? At what cost ?] 043
9. Will there be enough water pressure for irrigating the contracted acreage? If not who purchases and maintains the pumps and equipment to do so? At what cost and to whom?] 044
10. If you contract for water/acre, are you required to use all of it if you do not need it? Are you charged for it? Who pays for the use of the water and at what cost ?] 045

(4)

ry Blanchard wrote
Mary Blanchard Colette

11. If you contract for the water when do you need to begin use? Getting rid of weeds takes time and is necessary before planting a permanent pasture. One might want to do a silage crop then plant a pasture? 046
12. Who provides the seed? At what cost? 047
13. Who provides the irrigation pipe and sprinklers? At what cost? 048
14. What about maintenance and extra equipment? At what cost? 049
15. Who will monitor chemical and metal build up? If clover is used more nitrogen goes into the soil? Other chemicals are questionable, also. How do you monitor this and at what cost? When pipes are flushed what about sludge build up? (3-3-5) 050
- In five years or more if research discovers adverse effects from using waste water to irrigate pasture and crops who is liable? Sludge was mentioned. Are users of wastewater required to take sludge? 051
052
053
16. Impact on the Esteros due to storage and irrigation is significant. (p 1-35) 054
The Estero is down hill from several sites. Excess rain and tides already cause the Esteros problems. Who is responsible for excess wastewater running into the Esteros? At what cost and to whom?
17. What are costs of hook up fees? At whose expense? 055
18. When you irrigate you can put more animals on less land for a short period of time. Rotate pastures. Animals cannot be on land that is being irrigated as it ruins the pasture. Must let it sit for two weeks to get some growth before rotation = more cattle on less land. Is this cost effective? Flat lands already saturated most of the year. 056
19. Your survey mentioned many would use large amounts of the waste water. In your survey, how much padding did you do? If a rancher said he would irrigate 5 acres. How many feet per acre would you sell him for pasture? (2 acres/foot) 057
- If you irrigate from late spring to early fall, what happens to contracted water when it is not used because of lack of need? More would cause erosion and other problems. What happens at dam site if you cannot get enough people to use and pay for water? Will the rancher or other body be made to take more of then the contracted amount? What will the cost of the water be to the user? 058
059
20. Will there be an irrigation managers? At what cost and to whom? 060
21. What will happen when one tries to insure ones property? What will the increase in the price be? Cost for liability et al. 060

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22. Ranchers lives have been turned upside down for several years. Not knowing what the future holds for them and their families has created phenomenal stress and anxiety. Companies have been sued billions for less stresses then this. What is the cost? | 061

23. Remaining land use: providing any luseable land is left. Will we be able to operate our ranch as a dairy ranch as it has been used for years or will more government | 062

24. What does " the life of the action " mean . This was mentioned in several places in the plan ? It said that ???would control, preserve and maintain the operation for this long ? How long is this? What happens after? | 063

25. City of Santa Rosa representatives will be up for election in November. Will the newly elected officials be aware of all the significant wastewater issues and their impact to carry on intelligently to come up with a decision as to the use of the wastewater, or will the taxpayers, property owners , and all others affected by the plan remain in limbo as has happened for the last 11 years ? | 064

CONCLUSION: | 065

It is inconceivable to me that Santa Rosa would consider condemning valuable and increasingly scarce, prime agriculture land for storage sites as a viable option. Santa Rosa claims that emptying this pure, clean, reclaimed water directly out into the ocean would significantly limit their ability to control growth. Does this hold water??? Wouldn't it make more sense to pipe this pure water directly back to the City of Santa Rosa to reuse in their toilets and to water their yards, schools, playgrounds, parks, golf courses, etc., or out into the ocean? Parties interested in using the reclaimed water: ranchers, vintners, Geyserville, to name a few, could hook up to the pipeline and divert it to their use at their expense. I heartily approve of using the waste water when and where it is needed. This plan would avoid condemning valuable agriculture property for reservoirs and Dams that very likely will burst during the next earthquake. Is it Westside's problem that Santa Rosa cannot control the growth plan in such a way as to monitor it effectively without having to use visible waste water dams as its main factor of control? Dams built on an active earthquake fault | What happened to zoning and other regulatory statutes which controll building | Will 066 | 067 more dams be required as more growth occurs condemning more property in order to accommodate ever expanding building creating even more negative impact on the already shrinking agriculture and ecological habitat ? |

The City of Santa Rosa has made reviewing these documents extremely difficult. These plans affect our land. The language used is too technical to understand by the lay person. Understanding the organization of the documents and tracing through point by point all 18 volumes on all issues affecting a property was impossible and most of us did not have a C.D. rom or access to the 18 volumes. | 068

(6)

ry Blanchard Coletti
Mary Blanchard Coletti

LETTER 65

The cost of purchasing the volumes or a CD rom was expensive. Having to hire someone to interpret the documents in order to understand all the hidden significancies is expensive.---This is not making the documents easily available to be reviewed by the public and by those affected by the proposed project as required by law. |

068 (cont.)

(1)

Presented at Public Hearing Sept. 24, 1996

My name is Mary Blanchard Coletti

069

I live at 1286 SE 38th St., Hillsboro, Oregon

I am a member of the APRA- Agricultural Property Rights, and Friend of the Estero

I am addressing Table 1-13 Geology, Soils, and Seismicity 3.4-3.9 Draft Summary- West Side Alternative

My family has owned ranches affected by the EIR-EIS project for 5 generations. I am trying to understand why Santa Rosa is proposing 5 Wastewater Dams to be built on an active earthquake fault.

In 1906---90 years ago ---less than a life time in my family--- our family home was rocked off its foundation and shattered to the ground.--- My Great Aunt Susan was in that house--- had a stroke and died. If you look at the hills above the home site you can see where the earth opened and did not realign as it closed. A dam site is proposed on this same property.

We have had many significant tremors since then that have caused the ground to shift and crack.,----- roads and bridges to collapse-----roads and bridges designed by competent government engineers. I'm sure you all remember the quake that caused the collapse of the Oakland Bay Bridge and the cracks in the Cypress Highway -----and then the Ferndale quake -----

Santa Rosa is proposing 5 Earth Filled Embankment Dams. I have had several experiences with these. They leak or at least seep. This is lucky for the little fishies who like to have this water to swim and live. Will the little fishies want to play in the wastewater below the wastewater dams? -----And where does the water go from there?--- to the creek ---to the stream ---to the river--- to the ocean.

070

We have worked closely with soil and erosion control trying to solve an erosion problem --- Drive down Dillons Beach road toward Tomales and look to your right-- an erosion control project was engineered...Year one --the design washed out--- Year two-- the next design washed out---This year we will try a new plan! --- Problem----- unusually heavy rains--- Don't you think that unusually heavy rains should be considered when designing an erosion control plan?

071

Page 4.19.5 and 6--If the dams burst----- Imagine this ---the maximum water depth would be----- site 3A ---80 feet high at Two Rock ---site 3B ---20 feet high at Bloomfield ---site 3C --- 17 feet high at Valley Ford and 26 feet high at Bloomfield.-- site 3D ---15 ft high at Valley Ford and 17 feet high at Bloomfield.-- and site 3E--76 feet high at Fallon-Two rock- and 61 feet high near Fallon. How could we call 911 --- all fire stations would be under water!

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may Blanchard Colette

LETTER 65

I do not think that the proposed Mitigation Measures are adequate solutions to the 073
problem that would occur if Mother Nature decided to have her way..

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any environmental impact statement required by the California Environmental Quality Act (CEQA) for a project in which the agricultural preserve is situated may be canceled if, at the hearing, or prior thereto, the owners of 51 percent of the contracted acreage in the agricultural preserve.

Note - See note to § 51201 for construction of Stats 1969 ch 1372

Collateral References:

Cal for 3d Pollution and Conservation Laws § 257

§ 51286. Procedure to challenge decision on grounds of noncompliance

Any action or proceeding which, on the grounds of alleged noncompliance with the requirements of this chapter, seeks to attack, review, set aside, void, or annul a decision of a board of supervisors or a city council to cancel a contract shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure.

The action or proceeding shall be commenced within 180 days from the council or board order acting on a petition for cancellation filed under this chapter.

Added Stats 1981 ch 1095 § 5, Amended Stats 1985 ch 106 § 30.

Amendments:

1985 Amendment: Nomenclature

Former Section: Former § 51286 was added by Stats 1965 ch 1083 § 1, amended by Stats 1968 ch 375 § 2, and repealed by Stats 1969 ch 1172 § 39

Note - See the Note following § 51260

Collateral References:

Law Review Article

Review of 1981 Legislation, 13 Pacific L.J. 749

we want to see the contract

DAVID J. GUY

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Williamson Act - Government Code Section

ARTICLE 6

Eminent Domain or Other Acquisition

Part 3. Local Agencies - Districts, Cities and Counties - Part 1. Powers and Duties Common to Cities and Counties - Chapter 7. Agricultural Land - Article 6. Eminent Domain or Other Acquisition, added by Stats 1969 ch 1443 § 1

- § 51280 State or local public improvements within preserve
- § 51291 "Public agency", Advancement of intention to consider location within preserve, Comments, Exception for public utilities
- § 51292 Conditions under which public improvement may not be located within preserve
- § 51293 Conditions under which public improvement may not be located within preserve; Special exceptions
- § 51293.1 Establishment of preserve prior to location of public utility improvement
- § 51294 Enforcement
- § 51294.1 Water transmission facilities within preserve, Local agency's approval
- § 51294.2 Validation proceedings
- § 51295 Contract automatically void by condemnation in eminent domain or approved acquisition for public improvement

Cross References

Eminent domain generally, CCP §§ 1416.01 et seq., 1416.02 et seq.

§ 51290. State or local public improvements within preserve
(a) It is the policy of the state to allow, whenever practicable, the location of any state or local public improvement within the preserve of public utilities and the acquisition of land therefor, in agricultural preserves.
(b) It is the policy of the state to allow, whenever practicable, to locate such improvement within an agricultural preserve, such improvement shall, whenever practicable, be located upon land other than land under a contract pursuant to this chapter.
(c) It is further the policy of the state that any agency or entity proposing to locate such an improvement shall, in considering the relative costs of parcels of land and the development of improvements, give consideration to the value to the public as indicated in Article 2

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(commencing with Section 51220), of land (and particularly prime agricultural land) within an agricultural preserve.

Added Stats 1965 ch 1443 § 1.

Cross References:

Certain compatible uses enumerated: § 51238.

§ 51291. "Public agency"; Advise ment of intention to consider location within preserve; Comments; Exception for public utilities

(a) As used in this section, Section 51292, and Section 51295 "public agency" means the state, or any department or agency thereof, and any county, city, school district, or other local public district, agency, or entity; and "person" means any person authorized to acquire property by eminent domain.

(b) Whenever it appears that land within an agricultural preserve may be required by a public agency or person for a public use, the public agency or person shall advise the Director of Conservation and the local governing body responsible for the administration of the preserve of the intention to consider the location of a public improvement within the preserve. The Director of Conservation shall forward to the Director of Food and Agriculture a copy of any material received from the public agency or person relating to the proposed acquisition.

Within 30 days thereafter the Director of Conservation and the local governing body shall forward to the public agency or person concerned their comments with respect to the effect of the location of the public improvement on the land within the agricultural preserve and those comments shall be considered by the public agency or person. In preparing those comments, the Director of Conservation shall consider issues related to agricultural land use, including, but not limited to, matters related to the effects of the proposal on the conversion of adjacent or nearby agricultural land to nonagricultural uses, and shall consult with, and incorporate the comments of, the Director of Food and Agriculture on any other matters related to agricultural operations. Failure of any public agency or person to comply with the requirements of this section shall not invalidate any action by the agency or person to locate a public improvement within an agricultural preserve. However, the failure by any person or any public agency other than a state agency shall be admissible in evidence in any litigation for the acquisition of that land or involving the allocation of funds or the construction of the public improvement. This subdivision does not apply to the erection, construction, alteration, or maintenance of gas, electric, water, or communication utility facilities within an agricultural preserve if that preserve was established

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lished after submission of the location of those facilities to the city or county for review or approval.

Added Stats 1965 ch 1443 § 1; Amended Stats 1967 ch 1371 § 11.5; Stats 1974 ch 544 § 2; Stats 1975 ch 1240 § 37; operative July 1, 1976; Stats 1984 ch 851 § 4

Amendments:

1967 Amendment: Added the last sentence

1974 Amendment: Added "Food and" before "Agriculture" in subd (b).

1975 Amendment: Deleted "by Section 1001 of the Civil Code" after "authorized" in subd (a).

1984 Amendment: Amended subd (b) by (1) generally eliminating "such"; (2) substituting "Director of Conservation" for "Director of Food and Agriculture" in the first and second paragraphs; and (3) adding the second sentence of the first and second paragraphs.

Law Revision Commission Comments:

1975—Section 51291 is amended to delete the reference to former Civil Code Section 1001 (repealed). See Code Civ Proc § 1240.020 (statutory delegation of condemnation authority required).

Cross References:

Director of Food and Agriculture: Fd & Ag C §§ 101 et seq.

Director of Conservation: Pub Res C §§ 600 et seq.

§ 51292. Conditions under which public improvement may not be located within preserve

(a) No public agency or person shall locate a public improvement within an agricultural preserve based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.

(b) No public agency or person shall acquire prime agricultural land covered under a contract pursuant to this chapter for any public improvement if there is other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.

Added Stats 1965 ch 1443 § 1; Amended Stats 1968 ch 659 § 1; Stats 1969 ch 1372 § 40

Amendments:

1968 Amendment: Added "or agreement" after "contract" in subd (b).

1969 Amendment: Deleted "or agreement" after "contract" in subd (b).

Note—See note to § 51201 for construction of Stats 1969 ch 1372.

Cross References:

"Prime agricultural land": § 51201(c).

§ 51293. Conditions under which public improvement may not be located within preserve; Special exceptions

Section 51292 shall not apply to:

(a) The location or construction of improvements where the board or council administering the agricultural preserve approves or agrees to the location thereof.

(b) The acquisition of easements within a preserve by the board or council administering the preserve.

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Mary Blanchard Colette

§ 51293.1 CITIES AND COUNTIES

(c) The location or construction of any public utility improvement which has been approved by the Public Utilities Commission.

(d) The location or construction of the following types of improvements, which are hereby determined to be compatible with or to enhance land within an agricultural preserve:

(1) Flood control works, including channel rectification and alteration.

(2) Public works required for fish and wildlife enhancement and preservation.

(3) Improvements for the primary benefit of the lands within the preserve.

(e) Improvements for which the site or route has been specified by the Legislature in such a manner as to make it impossible to avoid the acquisition of land under contract.

(f) All state highways on routes as described in Sections 301 to 622, inclusive, of the Streets and Highways Code, as said sections read on October 1, 1965.

(g) All facilities which are part of the State Water Facilities as described in subdivision (d) of Section 12934 of the Water Code, except facilities under paragraph (6) of said subdivision (d).

(h) Land upon which condemnation proceedings have been commenced prior to October 1, 1965.

Added Stats 1965 ch 1443 § 1; Amended Stats 1969 ch 1372 § 41.

Amendments:

1969 Amendment: (1) Amended subd (a) by (a) substituting "board or council" for "Director of Agriculture or the local governing body"; (b) deleting "other than the local governing body proposing to locate the improvement, except as to locations involving only the acquisition of easements within its own boundaries" after "preserve"; and (c) deleting the former last sentence which read: "In addition, the approval by the Public Utilities Commission of the location of a public utility improvement shall exempt such improvement from the provisions of Section 51292." (2) added subds (b) and (c); and (3) redesignated former subds (b)-(f) to be subds (d)-(h).

Note—See note to § 51201 for construction of Stats 1969 ch 1372.

Cross References:

Compatible uses generally: §§ 51201(c), 51238.

Servitudes generally: CC §§ 801 et seq.

Authority to convey easements to public utility corporations: Gov C § 50135.

Public Utilities Commission: Pub Util C §§ 301 et seq.

§ 51293.1. Establishment of preserve prior to location of public utility improvement

Any public agency or person requiring land in an agricultural preserve for a use which has been determined by a city or county to be a "compatible use" pursuant to subdivision (e) of Section 51201 in that agricultural preserve shall not be excused from the provisions of

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§ 51294.1

subdivision (b) of Section 51291 if the agricultural preserve was established before the location of the improvement of a public utility was submitted to the city, county, or Public Utilities Commission for agreement or approval and that compatible use shall not come within the provisions of Section 51293 unless the location of the improvement is approved or agreed to pursuant to subdivision (a) of Section 51293 or the compatible use is listed in Section 51293.

Added Stats 1967 ch 1371 § 14; Amended Stats 1983 ch 101 § 71.

Amendments:

1983 Amendment: Routine code maintenance.

Cross References:

Compatible uses generally: §§ 51201(c), 51238.

Public Utilities Commission: Pub Util C §§ 301 et seq.

§ 51294. Enforcement

Section 51292 shall be enforceable only by mandamus proceedings by the local governing body administering the agricultural preserve or the Director of Conservation. However, as applied to condemnors whose determination of necessity is not conclusive by statute, evidence as to the compliance of the condemnor with Section 51292 shall be admissible on motion of any of the parties in any action otherwise authorized to be brought by the landowner or in any action against the landowner.

Added Stats 1965 ch 1443 § 1; Amended Stats 1970 ch 415 § 1; Stats 1974 ch 544 § 24; Stats 1984 ch 831 § 5.

Amendments:

1970 Amendment: Amended the second sentence, by (1) adding "on motion of any of the parties"; and (2) substituting "in any" for "by way of defense in an".

1974 Amendment: Added "Food and" before "Agriculture".

1984 Amendment: Substituted (1) "Director of Conservation" for "Director of Food and Agriculture" in the first sentence; and (2) "the landowner" for "him" at the end of the section.

Cross References:

Writ of mandate generally: CCP §§ 1084 et seq.

Admissibility of evidence generally: Ev C §§ 310, 350 et seq.

Director of Conservation: Pub Res C §§ 600 et seq.

§ 51294.1. Water transmission facilities within preserve; Local agency's approval

After 30 days have elapsed following its action, pursuant to subdivision (b) of Section 51291, advising the Director of Conservation and the local governing body of a county or city administering an agricultural preserve of its intention to consider the location of a public improvement within such agricultural preserve, a public agency proposing to acquire land within an agricultural preserve for water

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CITIES AND COUNTIES

transmission facilities which will extend into more than one county, may file the proposed route of the facilities with each county or city administering an agricultural preserve into which the facilities will extend and request each county or city to approve or agree to the location of the facilities or the acquisition of the land therefor. Upon approval or agreement, the provisions of Section 51292 shall not apply to the location of the proposed water transmission facility or the acquisition of land therefor in any county or city which has approved or agreed to the location or acquisition.

Added Stats 1970 ch 415 § 2; Amended Stats 1974 ch 344 § 25; Stats 1984 ch 631 § 6.

Amendments:

1974 Amendment: Added "Food and" before "Agriculture".

1984 Amendment: Substituted (1) "Director of Conservation" for "Director of Food and Agriculture" in the first sentence; and (2) "the" for "such" after "or agreed to" near the end of the section.

Cross References:

Director of Conservation: Pub Res C §§ 600 et seq.

§ 51294.2. Validation proceedings

If any local governing body administering an agricultural preserve within 90 days after receiving a request pursuant to Section 51294.1 has not approved or agreed to the location of water transmission facilities as provided in Section 51294.1 or in subdivision (a) of Section 51293, the public agency making such request may file an action against such local governing body in the superior court of one of the counties within which any such body has failed to approve the location of facilities or the acquisition of land therefor, to determine whether the public agency proposing the location or acquisition has complied with the requirements of Section 51292. If the court should so determine, the provisions of Section 51292 shall not apply to the location of water transmission facilities, nor the acquisition of land therefor, in any of the counties into which they shall extend, and no writ of mandamus shall be issued in relation thereto pursuant to Section 51294. For the purposes of this section, the county selected for commencing such action is the proper county for the trial of such proceedings. In determining whether the public agency has complied with the requirements of Section 51292, the court shall consider the alignment, functioning and operation of the entire transmission facility.

Courts shall give any action brought under the provisions of this section preference over all other civil actions therein, to the end that such actions shall be quickly heard and determined.

Added Stats 1970 ch 415 § 3.

Cross References:

Declaratory relief generally: CCP §§ 1060 et seq.

Writ of mandate generally: CCP §§ 1084 et seq.

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COMMON POWERS AND DUTIES

§ 51295

§ 51295. Contract automatically void by condemnation in eminent domain or approved acquisition for public improvement

When any action in eminent domain for the condemnation of the fee title of an entire parcel of land subject to a contract is filed or when that land is acquired in lieu of eminent domain for a public improvement by a public agency or person or whenever there is any action or acquisition by the federal government or any person, instrumentality or agency acting under authority or power of the federal government, the contract shall be deemed null and void as to the land actually being condemned or so acquired as of the date the action is filed and for the purposes of establishing the value of the land, the contract shall be deemed never to have existed.

Upon the termination of the proceeding, the contract shall be null and void for all land actually taken or acquired.

When an action to condemn or acquire less than all of a parcel of land subject to a contract is commenced, the contract shall be deemed null and void as to the land actually condemned or acquired and shall be disregarded in the valuation process only as to the land actually being taken, unless the remaining land subject to contract will be adversely affected by the condemnation, in which case the value of that damage shall be computed without regard to the contract.

When an action to condemn or acquire an interest which is less than the fee title of an entire parcel or any portion thereof, of land subject to a contract is commenced, the contract shall be deemed null and void as to that interest and for the purpose of establishing the value of that interest only shall be deemed never to have existed, unless the remaining interests in any of the land subject to the contract will be adversely affected, in which case the value of that damage shall be computed without regard to the contract.

The land actually taken shall be removed from the contract. Under no circumstances shall land be removed that is not actually taken, except that when only a portion of the land or less than a fee interest in the land is taken or acquired, the contract may be canceled with respect to the remaining portion or interest upon petition of either party and pursuant to the provisions of Article 5 (commencing with Section 51280).

For the purposes of this section, a finding by the board or council that no authorized use may be made of the land if the contract is continued on the remaining portion or interest in the land may satisfy the requirements of subdivision (a) of Section 51282.

Added Stats 1963 ch 140 § 1; Amended Stats 1967 ch 1371 § 13; Stats 1969 ch 1372 § 42; Stats 1971 ch 1311 § 1; Stats 1984 ch 415 § 1.

Amendments:

1967 Amendment: Amended the first paragraph by (1) deleting "permissible" before "action in"; (2) adding "or whenever there is any such action or acquisition by

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the federal government or any person, instrumentality or agency acting under authority or power of the federal government"; (3) adding "no" after "condemned or"; and (4) adding "or so acquired" after "action is filed".

1969 Amendment: (1) Amended the first paragraph by (a) substituting "an entire parcel of land subject to a" for "any land under"; (b) substituting "shall be deemed" for "is"; (c) deleting "or so acquired" after "action is filed"; (d) substituting "for the purposes of establishing the value of such lands" for "hereafter"; and (e) substituting "be deemed never to have existed" for "not to be binding on any party to it"; and (2) added the second, third, and fourth paragraphs.

1971 Amendment: (1) Added the fourth paragraph; (2) substituted "but when only a portion of the land or less than a fee interest in the land is taken or acquired, the contract may be cancelled with respect to the remaining portion or interest upon petition of either party and pursuant to the provisions of Article 5 (commencing with Section 51280) of this chapter" for "as otherwise provided in this chapter" in the fifth paragraph; and (3) added the last paragraph.

1984 Amendment: (1) Generally eliminated "such"; (2) deleted "of this chapter" after "Section 51280" at the end of the fifth paragraph; and (3) substituted "subdivision (a)" for "subdivisions (a) and (b)" near the end of the last paragraph.

Note — Stats 1971 ch 1111 also provides: § 2. When it meets all other requirements under the California Land Conservation Act of 1965 provided for in Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code, a contract, which at the time of its execution contained any or all of the phrases quoted in this section, shall be deemed an enforceable restriction pursuant to Section 422 of the Revenue and Taxation Code.

(a) If such contract provides for its nullification upon the filing of a "condemnation of an interest in all or any part of the subject property" or a "condemnation of all or a portion of subject property" and the board of supervisors of the county or city council of the city having jurisdiction over the land subject to such contract passes an ordinance stating that in administering such portion of the contract it will apply Section 51295 of the Government Code; or

(b) If such contract provides that the remaining portion of land after an action or acquisition by condemnation is determined by the board of supervisors of the county or city council of the city having jurisdiction over the land subject to the contract to be "impaired to such extent as to make it unsuitable for those uses legally available to the owner under terms of his contract" or provides that "such remaining land would no longer be eligible for contract under Section 51242 of the Government Code" and the board of supervisors of the county or city council of the city having jurisdiction over the land subject to such contract passes an ordinance stating that in administering such portion of a contract it will apply Section 51295 of the Government Code; or

(c) If such contract provides for any waiver of a cancellation payment "provided that such waiver is in the best interest of the program to conserve agricultural land" and the board of supervisors of the county or city council of the city having jurisdiction over the land subject to such contract passes an ordinance stating that in administering such portion of a contract, it will apply subdivision (c) of Section 51281 of the Government Code.

(d) Each landowner affected by an ordinance referred to in subdivisions (a) to (c), inclusive, of this section shall be given personal notice of such ordinance by registered mail, or if mail is not delivered to such person, by notice posted on the affected property.

Note — See also note to § 51201 for construction of Stats 1969 ch 1374.

Collateral References:

Cal Jur 3d Pollution and Conservation Laws §§ 258, 259.

ARTICLE 7

Demonstration Land Preservation Project

[Title 5, Local Agencies—Division 1, Cities and Counties—Part 1, Powers and Duties Common to Cities and Counties—Chapter 7, Agricultural Land—Article 7, Demonstration Land Preservation Project; Article added by Stats 1984 ch 803 § 1.]

§ 51296. Legislative findings

§ 51296.5. Agreement with county to operate demonstration project; Contents

§ 51297. Authority of county to enter into agreements and make trust payments; Hearings

§ 51297.5. Annual report

§ 51298. Repeal of article

§ 51296. (Operative until January 1, 1990) Legislative findings

The Legislature finds and declares that agricultural land trusts represent a promising method of preserving productive agricultural lands without the direct intervention of state or local land use regulations. The Legislature further finds and declares that the County of Marin has adopted local policies, including its general plan and local coastal plan, which promote the preservation of productive agricultural lands and has encouraged the development and operation of agricultural land trusts capable of undertaking a demonstration project to preserve productive agricultural lands. The Legislature further finds and declares that it is in the public interest to enhance these efforts to preserve productive agricultural lands in Marin County by supporting the efforts of agricultural land trusts.

Added Stats 1984 ch 803 § 1.

Cross References:

Legislative findings regarding agricultural preserves generally: § 51230.

§ 51296.5. (Operative until January 1, 1990) Agreement with county to operate demonstration project; Contents

The State Coastal Conservancy may enter into an agreement with the County of Marin to operate a demonstration project for the purpose of determining the feasibility of preserving productive agricultural

Mary Blanchard Collette

Santa Rosa, California, Sunday, September 29, 1996

Cheap, clean wastewater solution: Put it in the river

What do you think?
How should Santa Rosa dispose of wastewater from the regional treatment plant?
Send your ideas and comments to Readers' Agenda, The Press Democrat, P.O. Box 568, Santa Rosa 95402. Fax: 523-8073. E-mail: PDLETTERS@AOL.COM
So that we can publish as many suggestions as possible, please keep your letters to 150 words or less. If you've written a letter to the editor in the last 90 days, don't worry. Your comments won't count as a letter to the editor.

CLOSE TO HOME
The environmentally superior alternative specified in the EIR is a discharge from the treatment plant into the Laguna de Santa Rosa and on to the Russian River at a rate as high as 20 percent of river flow.
This happens to be the least costly alternative as well.
How can this be? Simple. Advanced wastewater treatment is safe for people and the environment. The Laguna de Santa Rosa is an impaired wetland. See River, back page

By STEVE KLAUSNER
Santa Rosa has an exhaustive draft environmental impact report that studies a wide range of options for disposing of wastewater. This home of some 8,500 mind-numbing pages cost nearly \$13 million.
No citizen in this nation, or at least none in California, has ever studied wastewater disposal.
But then again, no city's wastewater has ever attracted a near cultlike following of critics like Santa Rosa's.
Hopefully, this document is bullet-proof in a court of law, because its conclusions are bound to excite the sewage faithful.
It is clear from this document that the primary cost drivers for disposal are not protecting public health or the environment as most would suppose. Wastewater treatment in these alternatives is the secondary objective in water reuse.
The California Environmental Quality Act requires the

What's holding Santa Rosa back from this common-sense, economically viable and environmentally safe project? Politics, plain and simple.

River

Continued from Page G1
where an infusion of water would actually be beneficial. And by every measurable standard, wastewater is cleaner than the Russian River.
It's also important to remember that a 20 percent discharge is the worst-case scenario and would only occur during extreme drought. The discharge rate would actually be only 4 percent 85 percent of the time. And discharges only take place during the winter months.
Reuse, politically popular among environmentalists, actually carries the heaviest ecological toll.
Sewage reservoirs will flood sensitive, native grasslands, riparian woodlands and fresh water marsh. Reservoirs will cut off natural stream flows downstream affecting additional aquatic habitats.
Two endangered species, the reg-legged frog and the northwestern pond turtle, will be significantly impacted.
State and federal law requires that these environmental impacts be fully mitigated.

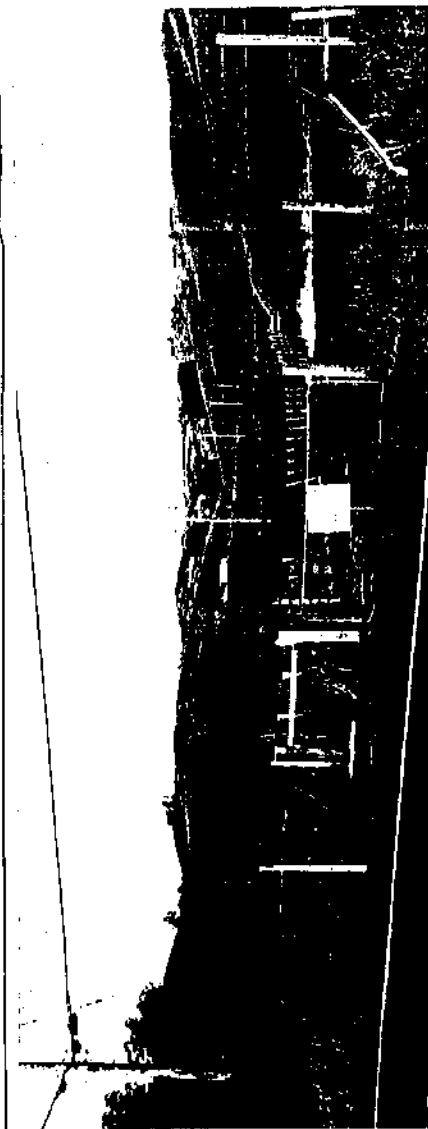
Included in the draft EIR are compensatory measures under the Sensitive Biological Resources Conservation Program requiring the purchase of an additional reservoir site for mitigation.
It's a deal that not one but two other EIRs have been turned down. Today Lake Two Rock for mitigation purposes or visa versa. This ought to give farmers owning the various reservoir sites around the county something new to worry about.
Discharge into the Laguna de Santa Rosa involves no loss of native vegetation. It impacts no endangered species. It requires no mitigation.
The South County Reclamation plan has a price tag of \$350 million. Rates would increase over their current levels by \$11 to \$14 per household member per month. A typical family could be paying as much as \$100 per month for sewage disposal. Hookup fees for new homes would increase from \$7,300 to \$24,400. It could cost as much as \$200,000 to book up a small restaurant.
These will be some of the highest sewage rates and hookup fees in the nation.
These expenditures are justified by a cost-benefit analysis that heavily weighs

the "valuable" contribution reclaimed wastewater can make to agriculture, jobs and increased farmland values.
The problem is who's paying and who's benefiting.
It will cost about \$7,000 for each 4,000 jobs created. Half of these jobs will be low-paying farm work, the other half installing and managing the irrigation program. If reclaimed water was truly a valuable resource, wouldn't the beneficiaries be funding the program? As it is, irrigators do not expect to so much as buy their own sprinklers.
Discharge into the Laguna de Santa Rosa, costing \$49 million, would require only a 25-cent increase per household member per month and hookup fees would be reduced from their current levels by \$2,400.
Discharge into the Laguna flunks the cost-benefit analysis test. Why? It doesn't create any jobs, but then again it doesn't cost much not to create these jobs. The advantage of leaving this money in the local community to support local businesses and local jobs is not part of the analysis.
It's clear from the document that partial solutions like a 10 percent or 15 percent

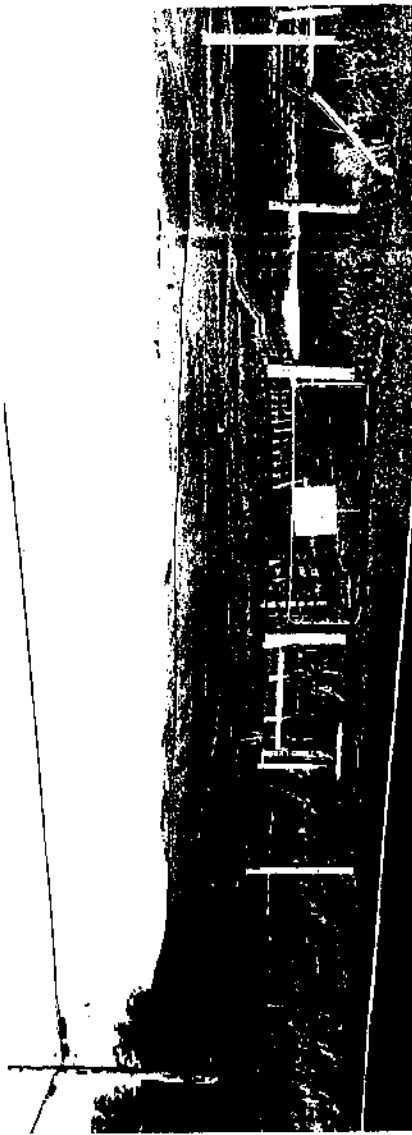
discharge, rather than the full 20 percent, or a compromise like phasing in the project, would have little impact on overall costs.
Laying a smaller pipeline still requires digging up the roadbed. The cost of a dam is in its footing, not its height. Most environmental impact occurs regardless of a reservoir's size.
So what's the problem? What's holding Santa Rosa back from the common-sense, economically viable and environmentally safe project?
Politics, plain and simple.
The unspoken issue fueling the wastewater debate and capturing the imagination of our sewage activists is not public health, environmental safety or even the ethics of reuse. It is growth control, and their efforts are going to backfire.
The mandate of the sub-regional system is to provide disposal based on the current general plans of Santa Rosa, Robert Park, Coati and Sebastopol. If a reuse project with a high infrastructure cost is adopted and the cities fail to meet their growth projections, costs per capita go up. Increased development, on the other hand, could cause per capita costs to drop. This could be a real stimulus for growth.

The discharge alternative works just the opposite. Only if cities exceeded their growth projections would the expense of additional storage be needed.
This ploy by sewage activists and their hired guns is a cynical corruption of environmental regulation. They are attempting to turn shields — laws designed to protect the environment and public health — into swords that promote their own unrelated policy goals.
Growth control is a matter of zoning and the business of city councils and county government. It has got nothing to do with wastewater. It has everything to do with politics.
The real purpose of Santa Rosa's EIR/EIS is to successfully fight the anticipated lawsuit that will be filed. Final project selection will be the first order of business of the 1997 Santa Rosa City Council, a majority of which will be elected this fall.
In the coming months, rhetoric will be flying fast and thick. City council candidates and their constituents will be afforded an excellent opportunity to acquaint themselves with the stinky nuances of Santa Rosa's great wastewater debate.


Mary Blanchard Collette




Existing view from Highway 1 and Valley Ford Road.



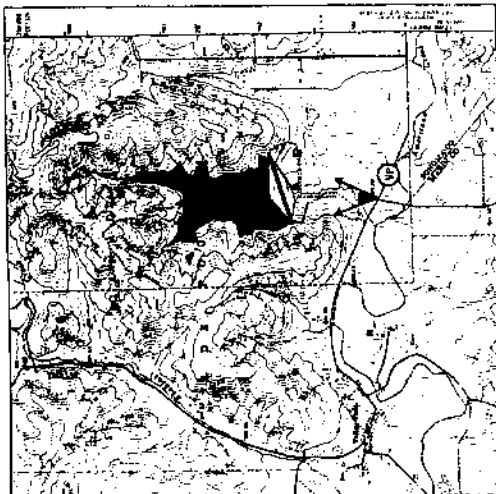
Computer model of dam one year after construction.

Source:  DAMES & MOORE

HARLAND BARTHOLOMEW & ASSOCIATES, INC.
UNITS OF DARGONE INFRASTRUCTURE & TECHNOLOGY INC.

 PARSONS

Santa Rosa
Subregional Long-Term
Wastewater Project



Viewpoint Location

Source: USGS



Computer model of dam

Figure 4.14-17

VISUAL SIMULATION
VALLEY FORD RESERVOIR SITE

